

## §8.6

## 12 CFR Ch. I (1–1–01 Edition)

a ROCA rating (which rates risk management, operational controls, compliance, and asset quality) of 3, 4, or 5 at its most recent examination.

[44 FR 20065, Apr. 4, 1979, as amended at 49 FR 26205, June 27, 1984; 49 FR 50602, Dec. 31, 1984; 53 FR 48627, Dec. 1, 1988; 55 FR 49842, Nov. 30, 1990; 57 FR 22416, May 28, 1992; 61 FR 64002, Dec. 2, 1996; 62 FR 54745, Oct. 21, 1997; 62 FR 64137, Dec. 4, 1997]

### §8.6 Fees and assessments for examinations and investigations; independent trust banks.

(a) *Fees.* Pursuant to the authority contained in 12 U.S.C. 481 and 482, the Office of the Comptroller of the Currency assesses a fee for examining fiduciary activities of national and District of Columbia banks and related entities, for conducting special examinations and investigations of national and District of Columbia banks, for conducting examinations of affiliates of national and District of Columbia banks, and for conducting examinations and investigations made pursuant to 12 CFR Part 5, Rules, Policies, and Procedures for Corporate Activities.

(b) *Notice of Comptroller of the Currency Fees.* The OCC publishes the fee schedule for fiduciary activities, special examinations and investigations, examinations of affiliates and examinations related to corporate activities in the Notice of Comptroller of the Currency Fees described in §8.8.

(c) *Additional assessments on trust banks.* (1) *Independent trust banks.* The assessment of independent trust banks will include a managed asset component, in addition to the assessment calculated according to §8.2 of this part, as follows:

(i) *Minimum fee.* All independent trust banks will pay a minimum fee, to be provided in the Notice of Comptroller of the Currency Fees.

(ii) *Additional amount for independent trust banks with managed assets in excess of \$1 billion.* Independent trust banks with managed assets in excess of \$1 billion will pay an amount that exceeds the minimum fee. The amount to be paid will be calculated by multiplying the amount of trust assets under management by a rate or rates provided by the OCC in the Notice of Comptroller of the Currency Fees.

(2) *Trust banks affiliated with full-service national banks.* The OCC will assess a trust bank in accordance with paragraph (c)(1) of this section, notwithstanding that the bank is affiliated with a full-service national bank, if the OCC concludes that the affiliation is intended to evade the assessment regulation.

(3) *Definitions.* For purposes of this paragraph (c) of this section, the following definitions apply:

(i) *Affiliate* has the same meaning as this term has in 12 U.S.C. 221a(b);

(ii) *Independent trust bank* is a national bank that has trust powers, does not primarily offer full-service banking, and is not affiliated with a full-service national bank; and

(iii) *Trust assets* are those assets reported on Schedule A, Line 18 of the Annual Report of Trust Assets (FFIEC Form 001). The form is available by mail from the Office of the Comptroller of the Currency, Asset Management Division, 250 E Street, SW., Washington, DC 20219.

[59 FR 59642, Nov. 18, 1994, as amended at 65 FR 75862, Dec. 5, 2000]

### §8.7 Payment of interest on delinquent assessments and examination and investigation fees.

(a) Each national bank, each district bank, each Federal branch, and each Federal agency shall pay to the Comptroller of the Currency interest on its delinquent payments of semiannual assessments. In addition, each national bank and each entity with a trust department examined by the Comptroller of the Currency and each institution that is the subject of a special examination or investigation conducted by the Comptroller of the Currency shall pay to the Comptroller of the Currency interest on its delinquent payments of examination and investigation fees. Semiannual assessment payments will be considered delinquent payments of examination and investigation fees. Semiannual assessment payments will be considered delinquent if they are received after the time for payment specified in §8.2. Examination and investigation fees will be considered delinquent if not received by the Comptroller of the Currency within 30 calendar days of the invoice date.

(b) Where an entity which is required to make semiannual assessment payments or trust examination fee payments determines that it has made any such payment in an amount exceeding that required by the Comptroller of the Currency, that entity shall provide the Office of Financial Operations, Comptroller of the Currency, with written notice of the overpayment. Within 30 calendar days of receipt of such notice, the Comptroller of the Currency shall either—

(1) Refund the amount of the overpayment or

(2) Provide notice of its unwillingness to accept the calculation of overpayment. In the latter instance, the Comptroller of the Currency and the entity claiming the overpayment shall thereafter attempt to reach agreement on the amount, if any, to be refunded; the Comptroller of the Currency shall refund this amount within 30 calendar days of such agreement.

The Comptroller of the Currency shall be considered delinquent if it fails to return an overpayment in accordance with the time limitations specified in this paragraph (b). The Comptroller of the Currency shall pay interest on any such delinquent payments.

(c) Interest on delinquent payments, as described in paragraphs (a) and (b) of this section, will be assessed beginning the first calendar day on which payment is considered delinquent, and on each calendar day thereafter up to and including the day payment is received. Interest will be simple interest, calculated for each day payment is delinquent by multiplying the daily equivalent of the applicable interest rate by the amount delinquent. The rate of interest will be the United States Treasury Department's current value of funds rate (the "TFRM rate"); that rate is issued under the Treasury Fiscal Requirements Manual and is published quarterly in the FEDERAL REGISTER. The interest rates applicable to a delinquent payment will be determined as follows:

(1) For delinquent days occurring from January 1 to March 31, the rate will be the TFRM rate that is published the preceding December for the first quarter of the ensuing year.

(2) For delinquent days occurring from April 1 to June 30, the rate will be the TFRM rate that is published the preceding March for the second quarter of that year.

(3) For delinquent days occurring from July 1 to September 30, the rate will be the TFRM rate that is published the preceding June for the third quarter of that year.

(4) For delinquent days occurring from October 1 to December 31, the rate will be the TFRM rate that is published the preceding September for the fourth quarter of that year.

[48 FR 30599, July 1, 1983. Redesignated and amended at 49 FR 50605, Dec. 31, 1984]

#### **§ 8.8 Notice of Comptroller of the Currency fees.**

(a) *December notice of fees.* A "Notice of Comptroller of the Currency Fees" shall be published no later than the first business day in December of each year for fees to be charged by the Office during the upcoming year. These fees will be effective January 1 of that upcoming year.

(b) *Interim notice of comptroller of the Currency fees.* The Office may issue an "Interim Notice of Comptroller of the Currency Fees" or issue an amended "Notice of Comptroller of the Currency Fees" from time to time throughout the year as necessary. Interim or amended notices will be effective 30 days after issuance.

[55 FR 49842, Nov. 30, 1990]

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